

# IOWA UNDERGROUND STORAGE TANK

## Financial Responsibility Program

Susan E. Voss, *Chairperson*

Scott M. Scheidel, *Administrator*

**Board Members:**

Michael L. Fitzgerald

Jeff W. Robinson

Jacqueline A. Johnson

James M. Holcomb

Richard A. Leopold

Nancy A. Lincoln

Douglas M. Beech

### NOTICE OF PUBLIC MEETING

A public meeting of the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board has been scheduled for 10:00 a.m., Thursday, September 25, 2008. **The meeting will be held at the Iowa Insurance Division located at 330 E Maple St, Des Moines, Iowa.**

The tentative agenda for the meeting is as follows:

10:00 a.m. Call to Order

✓ 1. Approval of Prior Board Minutes

(w/ 2 corrections)

2. Closed Session – Discussion of Pending and Imminent Litigation (To adjourn by 10:30 a.m.)

3. Public Comment Period

- Jeff Have support for Ch. 135

4. Board Issues

A. 28E Agreement re: Ch. 135 amendments

B. NFA 28E Agreement

C. DNR Funding Discussion

D. LPT Proposal

E. DNR Update

1-888-242-4129

# 3696648

5. Approval of Program Billings

6. Monthly Activity Report and Financials Reviewed

7. Attorney General's Report

8. Claim Payment Approval

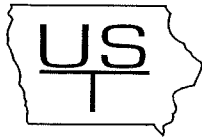
9. Contracts Entered Into Since August 27, 2008 Board Meeting

10. Other Issues as Presented

11. Correspondence and Attachments

Lacey Cell:  
515-360-9432

## **Approval of Prior Board Minutes**



# IOWA UNDERGROUND STORAGE TANK FUND

*Susan E. Voss, Chairperson*

*Scott M. Scheidel, Administrator*

**Board Members:**

Michael L. Fitzgerald ❖ Jeff W. Robinson ❖ Jacqueline A. Johnson ❖ James M. Holcomb  
Richard Leopold ❖ Nancy A. Lincoln ❖ Douglas M. Beech

## **MINUTES**

### **IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND PROGRAM**

**August 27, 2008**

**COMMISSIONER'S CONFERENCE ROOM  
IOWA INSURANCE DIVISION, 330 EAST MAPLE STREET  
DES MOINES, IOWA**

Angela Burke-Boston, sitting in for Chairperson Susan Voss, called the Iowa UST Board meeting to order at 10:00 A.M. A quorum was present. Roll call was taken with the following Board members present:

Nancy Lincoln (via telephone)  
Doug Beech  
Jim Holcomb (via telephone)  
Jeff Robinson  
Kyle Rice (for Michael Fitzgerald)

Also present were:

David Steward, Attorney General's Office  
Jacob Larson, Attorney General's Office  
Scott Scheidel, Program Administrator  
James Gastineau, Program Administrator's Office  
Lacey Skalicky, Program Administrator's Office  
Brian Tormey, Iowa Department of Natural Resources  
Elaine Douskey, Iowa Department of Natural Resources

Stephen Larson joined the meeting by conference-call momentarily to notify the other Board members that Kyle Rice would represent the Treasurer's Office for this meeting, as Mr. Larson was traveling.

### **APPROVAL OF PRIOR BOARD MINUTES**

The minutes from the July 8, 2008 Board meeting were reviewed. Mr. Beech moved to approve the minutes, Mr. Holcomb seconded the motion, and by a vote of 4-0, the minutes were approved.

## **CLOSED SESSION**

Ms. Burke-Boston noted there were no matters dealing with litigation for discussion in closed session pursuant to Iowa Code Chapter 21. No closed session convened.

## **PUBLIC COMMENT**

There was no public comment from anyone present.

## **BOARD ISSUES**

### **A. FY08 Budget Revision**

Mr. Scheidel presented the Board with a revised FY08 budget. He noted that the Board agreed to revise the FY08 budget based on very large disbursements involved with the payoff of 1997A Series bonds and the defeasance of 2004A Series bonds, as necessitated by the TIME 21 legislation passed during the 2008 Session. The items that were changed from the previously approved budget had asterisks next to them. The items that were budgeted for occurrence during FY08, but were not realized until after the fiscal year end, had an "o" to mark them, as well. Mr. Holcomb submitted a motion to approve the revised FY08 budget, and Mr. Beech seconded the motion, which was approved by a vote of 4-0.

### **B. FY09 Budget**

Mr. Scheidel next presented the Board with a budget for FY09 based on actual year end balances, which were not available to the Administrator's Office in time for the July 8<sup>th</sup> meeting. He noted that because two items were not realized during the FY08 budget year, they were listed again on the FY09 budget. Mr. Holcomb submitted a motion to approve the FY09 budget, and Ms. Lincoln seconded the motion, which was approved by a vote of 4-0.

### **C. FY09 Goals Discussion**

Mr. Scheidel presented a document outlining the Board's goals for the new fiscal year. The goals set included the following:

- The net closure of 140 claims
- To hold 100 corrective action meetings
- To set a meeting with Legislative and Executive policy makers to review IUST program and future potential
- To seek change to Iowa Code Section 455G.6 to extend its expiration date from 6/30/09 to 6/30/14 to coincide with the sunset of funding
- To enter into an agreement with DNR for the handling of no further action (NFA) certificate-holding sites which still pose unreasonable risk from an eligible release

Mr. Scheidel noted that many goals from fiscal year 2008 were not completed due to lack of cooperation between the Board and the Department of Natural Resources (DNR). He offered the list of goals for FY09 for Brian Tormey to comment about DNR commitment to any of those goals. Pending goals and action items from the Board document included the following:

- Complete the implementation of the recalibrated Tier 2 Model
- Complete joint evaluation of plastic water line information including studies, actual experiences in Iowa, and information from other states to develop policies and rules consistent with the results of the evaluation
- DNR discussion at the 8/27/08 IUST Board meeting regarding other risk based corrective action (RBCA) calibrations regarding areas including soil gas methodology, sewers as receptors, surface water restrictions and the capturing effect of time on historical releases
- DNR report to the Board how it currently handles low risk sites, and identify the parameters that should keep a site open beyond a reasonable monitoring period in the absence of significant changes

Mr. Tormey explained that Ms. Douskey had a handout for Board members to review which outlined the DNR goals and objectives for FY09, and invited the Board to identify opportunities for cooperation to meet goals in common. He stated that the DNR previously agreed to meet the numerical goals of site closure and corrective action meetings. And he asked Ms. Douskey to run through the DNR list.

Ms. Douskey explained that she handed out two documents, one of which reported the FYE numbers for leaking underground storage tank (LUST) inspections, UST inspections, UST audits, UST deficiency inspections, etc, for Board review. Next, she addressed the DNR UST program priorities for FY09. The LUST section goals included its Environmental Protection Agency (EPA) commitment to closing 125 sites as no action required (NAR) within the Federal Fiscal Year 2009 (FFY09), which begins 10/1/08. She made note that the number may be pushed higher by EPA if additional national funding can be secured. Another goal was to host approximately 100 corrective action meetings during FY09. The third LUST goal was to begin use of the new Tier 2 model with the water supply well evaluation procedures as proposed in the Chapter 135 rule by DNR; however this goal was dependent upon the outcome of Administrative Rule Review Committee (ARRC) negotiations regarding the rule. The fourth DNR priority was to move stalled sites to by developing a procedure to address compliance issues including overdue reporting or no corrective action implementation. She explained that the new attorney position at the DNR was expected to assist in that effort of enforcement. The fifth DNR priority included the development of a summary of findings from the review of available research on the permeability of plastic water lines to petroleum, and Ms. Douskey said a subgroup had been formed to perform the task. The sixth LUST goal involved internal discussions of low risk site alternatives, initially short of a rule change, but if necessary consideration of a rule change regarding exit monitoring criteria and duration. Ms. Douskey reported that the DNR was able to close out approximately 100 low risk sites in the past year.

Next, Ms. Douskey outlined the UST section goals including the Chapter 134 and 135 rule changes, as well as, owner/operator training program development, as required by the Energy Policy Act by August 2009. Also the DNR planned to continue development of its third party

inspector program and database, stating the first permanent certification of third party inspectors was completed in August. Also, she explained that the UST installer program development was a priority to host contractor training and exams and approve training for UST installers, and to change some of the rules for the program.

Ms. Douskey noted that other DNR goals included the 28E agreement with the Board regarding NFA sites, legislation regarding tank management fees, working with field offices to complete LUST site inspections, UST inspector audits and compliance deficiency follow-up inspections of UST facilities, and follow up on temporarily closed UST's. Lastly, Ms. Douskey reported DNR's list of items for the Board to consider as goals. She stated that owners, operators, and landowners would benefit from the Board distributing outreach materials with eligibility criteria and documentation requirements to qualify for innocent landowner, remedial, or global settlement benefits. Also, she recommended the Board implement more pay for performance contracting or find out how to make that method work better. And she listed that the Board could change the statute to allow for cleanup at select low risk sites thereby getting those sites to closure sooner; although she mentioned that request was somewhat "out on a limb." She also cited support for expedited free product recovery efforts and support for training from the Interstate Technical Resource Council's vapor intrusion course as goals for Board consideration. She noted the ITRC 2-day training course was rumored to be helpful regarding vapor pathway evaluation.

Mr. Scheidel inquired about the measurability of the DNR's goals or how would the DNR quantify the completion of its goals. Mr. Tormey mentioned that the DNR would potentially have a written policy or guidance or possibly rule change proposal in place regarding how to address long-standing low risk sites, for example. Mr. Beech asked DNR to quantify the plastic water line research goal by stating more boldly that it could be resolved by fiscal year end. Mr. Tormey stated the Board might in turn outline in the FY09 funding agreement how it would assist the DNR with meeting its goals. Mr. Scheidel clarified that the 28E agreement for FY09 funding would include DNR commitment to similar goals with the Board in exchange for funding. Mr. Scheidel inquired if DNR staff had considered the specific RBCA calibrations regarding soil gas methodology, sewers as receptors, surface water restrictions, and the capturing effect of time on old releases. Mr. Tormey stated that DNR staff was more focused on getting the current RBCA recalibration of the model rule approved before targeting specific areas within the guidance. He noted that staff was prepared to delve into the plastic water line review, as well as, the low risk sites resolution discussion first before contemplating additional target items for discussion. Mr. Tormey stated the DNR staff had a full plate of activities for this fiscal year. He also stated he would like to have details regarding low risk sites that had stalled. Mr. Scheidel stated he could readily compile a list of such sites using DNR data for DNR review. He also felt that he had a better idea of how to further develop the 28E agreement for DNR funding for FY09.

#### **D. 28E – DNR Funding FY08 & FY09**

Mr. Scheidel provided a copy of the FY08 funding 28E agreement between the Board and the DNR reporting that it was completed and signed with the Iowa UST Fund transferring \$229,727.00 to the DNR to meet its budget shortfall for FY08 and to meet its requirements to

secure FY09 Federal grants. He noted the delay due to the late receipt of tank management fees (on 8/8/08), which were to be paid under statute by fiscal year end (6/30/08). Also, Mr. Scheidel explained that the FY09 agreement was still being drafted, and he would bring an agreement to the Board in September, with quantifiable DNR goals integrated. Mr. Beech stated that his opinion was that no funding should be agreed to until such time as the often discussed pending rule changes regarding the Tier 2 model were fixed to address the Board's concerns.

#### **E. NPDES Permits**

Mr. Gastineau reviewed a memo to the Board regarding the National Pollutant Discharge Elimination System (NPDES) permit program. He explained that the federal program was delegated to the State to regulate the direct discharge of wastewater, and the facilities that produced such waste were required to comply with the requirements of a permit before discharging waste into surface waters. He stated that LUST site remediation systems were exempted by DNR policy from being regulated and having to comply with NPDES permitting requirements. The policy was based on the idea that DNR staff reviewed plans for remedial systems to determine if the discharge would be limited to the parameters and concentrations identified in a DNR position paper. And if any contaminants beyond gasoline were present, the DNR would enforce the compliance with NPDES permit requirements.

Mr. Gastineau explained that in rare cases, as occurred at a recent LUST site, the petroleum contaminants that remain at the site after a NAR was achieved could be inadvertently captured and discharged through a sump system. In that particular case, routine sampling of a sump revealed petroleum contamination in the discharge to surface water, and although the site posed no environmental risk, the NPDES permit requirements remained for treatment and monitoring of the discharge. Mr. Gastineau recommended the Board adopt a policy, as none was currently in place, to provide funding to an eligible claimant to obtain a NPDES permit as may be required for any discharge related to a remediation system installed at a LUST site per DNR regulations. And further he recommended that the board shall not provide funding, unless authorized specifically by the Board, for claimants to obtain a NPDES permit as required for ongoing business operational activities such as sump pumps. Also, he recommended the Administrator be authorized to enter a settlement agreement providing to any claimant that had received benefits inconsistent with the new policy a final reimbursement of costs incurred to date. Mr. Gastineau stated that he was unaware of any other LUST sites that required a NPDES permit.

After brief discussion, Mr. Beech submitted a motion to approve the full recommendation of the administrator regarding compliance of NPDES permit requirements at LUST sites, and Mr. Holcomb seconded the motion. Approved 4-0.

#### **F. Tank Removal Rules and Settlements**

Mr. Scheidel updated the Board about the UST removal rule stating the rule had become effective as adopted by the Board. He noted the rule had been amended to include more LUST sites for eligibility to remove UST's in a timely manner to benefit the environment. The current issue before the Board involved settlement agreements previously entered into by the Board to settle claims at sites. He noted that three claimants had approached the Board for UST removal

benefits after previously releasing the Board by settlement agreement for any future benefits. Two of three sites involved new owners of sites who purchased from Coastal Mart, which previously released the Board with regard to these sites. The Board discussed the responsibility of the buyer to build the cost of UST removal into the sale price, as UST removal was an inevitable cost. The third claimant had released the Board through a loss portfolio transfer (LPT) settlement, and had an expectation of receiving benefits that were put into place following the settlement agreement. The Board discussed the precedent that would be set by altering the terms of any settlement agreement previously completed or to be completed in the future. If the settlement terms were not to be final, then Board liabilities would never cease. Mr. Scheidel brought the issue to the Board for discussion to confirm the will of the Board agreed with the terms of the settlements. Mr. Steward noted that no action was needed unless the Board wished to alter the terms of those agreements, which were expressly final. The consensus of the Board was to not amend the agreements in any way.

#### **G. SIC Model Calibration Update**

Mr. Scheidel reported that the Administrative Rules Review Committee (ARRC) had voted for a 70-day delay at its last meeting with regard to the DNR's proposed rule for the recalibration of the RBCA Tier 2 model. The delay was based on the concerns of industry-related interested parties who were not in favor of the expansion of the rule by DNR to include items beyond the recalibration of the model itself. Mr. Scheidel explained that he met with Wayne Gieselman of DNR management to discuss a compromise, and was later joined by Pat Rounds with Petroleum Marketers Management Insurance Company to further discuss a solution that would be mutually agreeable. Mr. Scheidel reported that Mr. Gieselman seemed agreeable to Mr. Scheidel's proposal to study sites of concern by DNR staff; the study would be funded by the Board through a 28E agreement, as proposed in April to DNR. He pointed out that the new rule, as proposed by DNR, was set to become effective on 10/16/08. He stated that next meeting before the ARRC was scheduled for 9/9/08 for either approval or delay, and then another meeting was set for 10/14/08. As a result of the timing, Mr. Scheidel pointed out that negotiations with regard to the study and the 28E agreement for it needed to be resolved quickly. He explained that the agreement would lay out the idea that if the study resulted in the need for additional work at a LUST site, the Fund's eligible and open claims benefits would pay for the cost, and the Fund's NFA claims benefits would cover at a LUST site that had previously received a NFA certificate. He stated he felt the agreement should stop short of placing a regulatory burden on the public if an unreasonable risk was found. Therefore, Mr. Scheidel was waiting for a response from the DNR about the agreement points so far.

Mr. Beech voiced his opinion that he would not vote to approve any FY09 funding agreement for DNR if the issue of the proposed RBCA rule and the fine points of the compromise agreement were not resolved. He also stated that he would like to fully understand the cost of the study to the Board before committing to a specific amount payable to the DNR for FY09. Mr. Tormey reported that Mr. Gieselman had forwarded the agreement to the water supply department for review.



## **H. Administrator Contract Renewal**

Mr. Steward reviewed with the Board the terms of the administrator's contract with Aon that was entered into in 2004 for two years with up to 4 one-year extension options. He noted this renewal discussion centered on the third extension for calendar year 2009. Mr. Steward stated that the current contract terms would be extended for one more year, with an increase of 5% in compensation, as written into the original contract agreement. He noted that there had been a decrease in compensation due to the transfer of the UST installer/inspector licensing program to the DNR. He also explained that there could be an additional reduction in compensation at any time the Loan Guarantee Program closes out, as well as, when the number of claims has been reduced by 50% from the time of the original contract.

Mr. Beech moved to approve the one-year extension of the administrator's contract with Aon, and Mr. Holcomb seconded the motion, which was approved by a vote of 4-0.

## **I. DNR Update**

Ms. Douskey noted that there was nothing further to report from the DNR.

## **PROGRAM BILLINGS**

Mr. Scheidel presented the current monthly billings to the Board for approval.

1. Aon Risk Services .....\$122,726.00  
Consulting Services – September 2008 (\$57,513.00)  
Claims Processing Services – September 2008 (\$55,213.00)
2. Attorney General's Office ..... \$1,534.67  
Services provided for June 2008
3. Nancy Lincoln .....\$112.32  
Mileage reimbursement to travel to 5/22/08 Iowa UST Fund Board meeting  
in Des Moines
4. Nancy Lincoln .....\$138.06  
Mileage reimbursement to travel to 7/8/08 Iowa UST Fund Board meeting  
at Neal Smith National Wildlife Refuge
5. Iowa Department of Revenue .....\$1,425.78  
Environmental Protection Charge collections Apr-Jun 2008
6. Officer of Auditor of State.....\$4,876.00  
Audit services performed during FY08 for Iowa UST Fund  
Accounting of FY07

7. Aon Risk Services .....\$485.09  
Reimbursement of expenses for the Annual Strategic Planning Session of the  
Iowa UST Fund Board 7/8/08

No additional billings for outside cost recovery counsel were presented by the Attorney General's office for this meeting. On a motion by Mr. Holcomb and a second by Ms. Lincoln, all billings were approved by a vote of 4-0.

### **MONTHLY ACTIVITY REPORT**

Mr. Scheidel noted that the July activity report and the June and July financials were in the Board packets for the Board members to review.

### **ATTORNEY GENERAL'S REPORT**

Mr. Steward introduced the Board members to Jacob Larson, who was new at the Environmental Division of the Attorney General's Office. He noted that Mr. Larson would not be working on UST Fund matters necessarily. The Board welcomed Mr. Larson to the meeting.

### **CLAIM AUTHORITY**

Mr. Gastineau presented the following claim authority requests:

#### **1. Site Registration 8710480 – Colby Management Co., Windsor Heights**

This site was classified high risk for the groundwater vapor pathway. The levels of contamination were presently below site specific target levels (SSTL's). Previous authority to \$75,000 had been granted, and \$65,909.18 was incurred to date. Additional authority to \$125,000 was requested for a site monitoring report (SMR), a possible corrective action design report (CADR), and implementation of the CADR.

A motion to approve the claim authority was submitted by Mr. Beech and seconded by Mr. Holcomb. Approved 4-0.

#### **2. Site Registration 8600154 - Rock C Store, Iowa Falls**

This was the second Board report for this site which was classified high risk for the soil leaching to groundwater pathway and for soil vapor to enclosed space for residential sewers. Free product was also present. Soil vapor sampling had failed. Groundwater did not pose a high risk for vapor as it was at a depth of 50 feet below ground surface. A soil vapor extraction (SVE) system would be installed to address the shallow soil contamination near the sanitary service to the site and to remove free product on the water table. DNR would allow use of a local ordinance to clear the high risk soil leaching pathway. Previous authority to \$223,000 had been granted, and \$116,620.21 was incurred to date. Additional authority to \$403,000 was requested for the SMR, CADR, SVE and free product recovery (FPR) activities.

Mr. Holcomb submitted a motion to approve the claim authority, and Ms. Lincoln seconded the motion. Approved 4-0.

**3. Site Registration 8601200 – Casey’s Marketing Co., Merrill**

This site was classified high risk for groundwater ingestion to an actual drinking well and low risk for protective groundwater source only. The contaminant levels were far below the high-risk SSTL, but did exceed low-risk SSTL. The Iowa UST Fund and Petroleum Marketers Management Insurance Company (PMMIC) shared liability for this site, with the Fund paying 80% of remediation costs. Previous authority to \$75,000 had been granted, and \$84,830.88 was incurred to date. Additional authority to \$110,000 was requested for a SMR.

Mr. Holcomb submitted a motion to approve the claim authority, and Ms. Lincoln seconded the motion, which was approved 3-0. Mr. Beech abstained from the discussion and the vote.

**4. Site Registration 8601909 – MRP Properties LLC/Total Petro, Mason City**

This site was classified no action required (NAR) with free product. Free product appearance had been transient, primarily in one well. No product had been observed since March 2008. Mr. Gastineau noted that the high water level may mask the contaminant level. Previous authority to \$75,000 had been granted, and \$86,165.15 was incurred to date. Additional authority to \$120,000 was requested for the FPR and monitoring well abandonment.

Mr. Beech inquired about the free product recovery method, and Mr. Gastineau stated that hand baling was used noting that ¾” of free product was the most that had been recovered over the past year in one monitoring well.

Mr. Beech submitted a motion to approve the claim authority, and Mr. Holcomb seconded the motion. Approved 4-0.

**5. Site Registration 8606922 – Olson Brothers Service Inc., Waukee**

Previously, this site had an eligible claim and received a no further action (NFA) certificate. A new leaking underground storage tank (LUST) number was assigned by the DNR after a tank pull in 2007. Only the largest three UST’s were pulled at that time, and a single soil sample located three feet under the dispenser was above SSTL’s. PMMIC, the insurer, had stated this release pre-existed their coverage. Now, the two remaining UST’s were to be pulled using the Iowa UST Fund tank pull benefit, however responsibility for the release was yet to be determined. Previous authority to \$75,000 had been granted, and \$75,500.75 was incurred to date. Additional authority to \$115,000 was requested for the tank pull, although a risk based corrective action (RBCA) report, a SMR, and a CADR might be required, as well.

Mr. Holcomb submitted a motion to approve the claim authority, and Mr. Beech seconded the motion. Approved 4-0.

**6. Site Registration 8607200 – The Short Stop, LLC., Worthington**

This was the second Board report for this site which was classified high risk. The sandy soil at the site had prevented the excavation from being as effective as was hoped, and the remaining contamination levels were too high for an oxygen-releasing compound (ORC) to be effective. A small air sparge SVE system was added. SSTL's were met in the last monitoring event, but that may be due to high water levels. There were nearby drinking water wells and SSTL's were very low, therefore continued use of the SVE system would be necessary. Previous authority to \$253,000 had been granted, and \$267,386.87 was incurred to date. It was noted that the Administrator's Office had over spent beyond the reserves on this file. Additional authority to \$353,000 was requested for the SMR and operation and maintenance of the SVE system.

Mr. Beech submitted a motion to approve the claim authority, and Mr. Holcomb seconded the motion. Approved 4-0.

**7. Site Registration 8811086 – City of George**

This was the second Board report for this site which was still classified high risk after some remediation had been completed at the site. Contamination still existed in the vicinity of residential basements and residential sewers. An excavation in the city street and right-of-way was proposed. The costs of the excavation would be high due to the nature of the work in the street and around utilities. No better remedial option was available. Previous authority to \$475,000 had been granted, and \$424,692.84 was incurred to date. Additional authority to \$750,000 was requested for the SMR, implementation of the excavation, and FPR.

Mr. Gastineau explained that previously a remedial system had been installed, but the system was not completely successful and the majority of the contamination was under the street. Also, he noted there were pockets of free product throughout, therefore an excavation was the only remaining option at the site. He also stated that the site was a county site, acquired by tax deed, funded at 100%, as counties are often encouraged to take over abandoned properties to address the risk. The risk to one or two basements in proximity to the contaminant plume could not be precisely determined, as those neighbors would not allow for vapor sampling on their properties. Board members expressed concern for spending so much money to address an uncertain risk of vapors. Mr. Gastineau stated that many sites were remediated for the vapor risk alone.

After additional discussion, Mr. Holcomb submitted a motion to approve the claim authority with the intention to further discuss the issue; however there was not a second for the motion. The motion died.

**CONTRACTS ENTERED INTO SINCE THE AUGUST 27, 2008 BOARD MEETING**

Mr. Scheidel noted that the Board had entered into several agreements and contracts since the July 8, 2008 Board meeting.

1. 28E agreement with DNR for UST closure contract sites
2. Contract with GeoTek for UST closures

3. Contract with Barker Lemar for UST closures
4. 28E agreement with DNR for NFA funding for 3 specific UST sites
5. 28E agreement with DNR to provide DNR's UST Section with funding for FY08
6. Contract with Apex for community remediation project (CRP) in Rose Hill
7. Contract with GeoTek for CRP in Walnut
8. Contract with Seneca for CRP in Akron

### **OTHER ISSUES**

Mr. Scheidel notified the Board that he would likely have a proposal for a loss portfolio transfer (LPT) from PMMIC at the next Board meeting. He stated the next meeting was scheduled for Thursday, September 25<sup>th</sup> at 10 A.M. in the Utilities Conference Room 3.

Ms. Douskey explained to the Board that vapor receptors were the primary risk at many of the other sites approved for additional claim authority by the Board; therefore she inquired why the City of George site was not approved since the risk receptor was one of vapor, as well. Mr. Scheidel observed that the high cost represented by the City of George board report highlighted the Board's message that there exists a possible need to evaluate the actual risk posed by vapor to certain receptors.

### **CORRESPONDENCE AND ATTACHMENTS**

Ms. Burke-Boston asked if there was any further business, and there being none, Mr. Beech moved to adjourn, and Mr. Holcomb seconded the motion. By a vote of 4-0, the Board adjourned at 11:41 A.M.

Respectfully Submitted,



Scott M. Scheidel  
Administrator

## **Closed Session**

### **Discussion of Pending and Imminent Litigation**

## **Public Comment**

## **Board Issues**



**A. 28E Agreement re: Ch. 135 Amendments**

written for  
5 yrs.  
ant. less  
than that.

will ask  
ARC  
session delay

rules into  
effect 10-16-08

High End  
\$4.5

**28E AGREEMENT**  
**BETWEEN the IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE**  
**TANK FUND BOARD AND THE IOWA DEPARTMENT OF NATURAL RESOURCES**  
**for THE STUDY OF PUMPING WELL INFLUENCE ON PETROLEUM**  
**CONTAMINATION PLUMES**

This Agreement is entered into by and between the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board (hereinafter "Board"), with its Administrator's office located at 2700 Westown Parkway, Suite 320, W. Des Moines, Iowa 50266, and the Iowa Department of Natural Resources (hereinafter "DNR"), located at 502 E. 9th Street, Des Moines, IA 50319. This Agreement is entered into pursuant to Iowa Code chapter 28E and Iowa Code sections 455G.5 and 455G.6(15), and is effective as of the date it is fully executed by all parties.

**I. PURPOSE**

In 2006, the Software Investigation Committee (a committee including DNR staff and interested stakeholders) was formed to examine the risk based corrective action (RBCA) Tier 2 software used for evaluating potential risks from petroleum releases. The purpose of the Committee was to investigate the possibility of making the Tier 2 model more representative of actual risk posed by the existence of contamination at leaking underground storage tank (LUST) sites. The Committee concluded the model should be adjusted to provide a more realistic predicted plume size; however, the DNR has some concerns that an at-risk pumping well may not be identified because of the smaller projected plumes in the recalibrated Tier 2 model, and that a two-dimensional model and traditional two-dimensional sampling regime at LUST sites may not adequately characterize pumping influences of the well on contaminant plume movement or vertical migration.

The purpose of this Agreement is to establish the terms and conditions under which the Board will provide funding to the DNR to evaluate the risk posed by UST petroleum contamination to public water supply wells that are located outside the actual or modeled groundwater plume and which may otherwise have been classified no action required with a Tier 1 or Tier 2 risk assessment. The study will incorporate and evaluate the criteria in ITEM 5 of ARC 6892B as published in the July 2, 2008 edition of the Iowa Administrative Bulletin.

At a minimum the study will screen no less than 125 new, current or historical LUST sites. The results of the study will be used to modify RBCA rules to ensure adequate protective screening is in place to identify and address any unreasonable risk to human health through public water supplies. The intent in the broadest sense, is to provide for continued calibration of the Tier 2 model to ensure it is an appropriate screening tools for risk posed to relevant receptors.

The parties mutually agree that nothing contained in this agreement is intended to limit,

modify, change, expand, restrict, rescind or otherwise alter the statutory or regulatory authority, duties or responsibilities of either party.

## **II. TERM**

Unless otherwise terminated in accordance with the terms of this Agreement, the Agreement shall be in effect for five years from its effective date, or the completion of the study. Upon completion of the study, should results indicate a change in Chapter 567 IAC 135 (RBCA) rules is warranted, the term and conditions specified in the agreement regarding well assessment and funding shall be extended to sufficiently be protective of wells during the period under which rules changes are made and finalized.

## **III. ADMINISTRATION**

This Agreement shall be administered by the Board and its Administrator in consultation with the DNR. All administrative decisions concerning this Agreement shall be undertaken pursuant to the terms outlined herein.

## **IV. RESPONSIBILITIES**

The DNR and the Board shall retain all powers and duties conferred by their respective enabling acts, but shall assist each other in the exercise of these powers and the performance of these duties in the following manner:

### **A. DNR RESPONSIBILITIES**

1. Provide regulatory oversight of sites using the calibrated Tier 2 model.
2. Identify sites that warrant additional study, beyond the required Tier 1 or Tier 2 risk assessment, for which the department believes the public water supply well may potentially be at risk. The DNR may use any criteria for selection of these sites.
3. Jointly develop scope of work for the additional study to be completed consistent with Item 5 in ARC 6892B as published July 2, 2008 in the Iowa Administrative Bulletin.
4. Jointly review and evaluate proposals in the selection of qualified professionals to perform the requested scope(s) of work.
5. Consolidate and track results of studies as they are completed.
6. If the results of the study of public water supply wells located outside the actual or modeled groundwater plumes indicate that additional assessment procedures are required to adequately protect public drinking water

supplies, the DNR shall adopt rules to outline those procedures.

7. Assist the Board in securing any grants or funding to offset the costs associated with this agreement.

**B. BOARD RESPONSIBILITIES**

1. Provide funding for study at sites that DNR identifies for additional study with regard to pumping wells located outside the identified Tier 1 search radius or Tier 2 actual or modeled plume.
2. Jointly develop scope of work for the additional study to be completed consistent with Item 5 in ARC 6892B as published July 2, 2008 in the Iowa Administrative Bulletin.
3. Jointly review and evaluate proposals in the selection of qualified professionals to perform the requested scope(s) of work.
4. Assist DNR with the evaluation of data obtained as studies are completed under this agreement.
5. Provide for the completion of work or direct funding through any applicable agreements or sources to address risk associated with specific sites for which a No Further Action certificate is issued during the term of this agreement that are proven through the study under this agreement to be likely to impact a public water supply well not identified in the calibrated Tier 2 model receptor ID plume.
6. Provide benefits to otherwise Fund eligible sites identified in the study that the DNR determines and reasonably demonstrates pose an unreasonable risk to public water supplies consistent with Iowa Code Section 455B.474 despite meeting the No Action Required standard in the calibrated model in IAC 567 Chapter 135 but for which a No Further Action certificate has not been issued.
7. Provide for corrective action at sites under any agreement pursuant to 455G.9(1)(k) at sites that have been issued a No Further Action certificate but for which the risk evaluation under this Agreement demonstrates that the site poses an unreasonable risk to a public water supply not identified by the calibrated model.
8. If the results of the study of public water supply wells located outside the actual or modeled groundwater plumes indicate that additional assessment procedures are required to adequately protect public drinking water supplies, creating a DNR responsibility to promulgate rules to outline those procedures, the Board shall continue providing funding under items 6 and 7 of this section beyond the term of this agreement and at least until the aforementioned rules are adopted.

## **V. FINANCING**

The Board shall pay all costs associated with the administration of this Agreement in accordance with the terms of this Agreement. The DNR shall pay all costs associated with DNR personnel.

## **VI. AMENDMENT**

This Agreement may be amended from time to time by written agreement of the Parties. All amendments shall be in writing, signed by both Parties, and filed with the Secretary of State and recorded with the Polk County Recorder.

## **VII. TERMINATION**

**A. Termination Upon Mutual Consent.** This Agreement may be terminated upon the mutual written consent of the parties.

**B. Termination By One Party.** Notwithstanding anything in this Agreement to the contrary, and subject to the limitations, conditions, and procedures set forth below, either party to this Agreement shall have the right to terminate this Agreement without penalty by giving sixty (60) days' written notice to the other party to the Agreement as a result of any of the following:

1. There are insufficient funds or resources available to allow a party to fulfill its obligations under this Agreement;
2. A change in the law prevents or substantially impairs a party's ability to participate in this Agreement; or
3. Failure to perform responsibilities described in this Section IV of this Agreement at a quality or quantity that can be reasonably expected by the other party.

## **VIII. NOTICES**

Whenever notices and correspondence are to be given under this Agreement, the notices shall be given by personal delivery to the other party, or sent by mail, postage prepaid, to the other party as follows:

### To the Board

Iowa UST Fund Board  
2700 Westown Parkway, Suite 320,  
W. Des Moines, Iowa 50266

### To the DNR

Iowa Department of Natural Resources  
UST Section  
502 E. 9th Street  
Des Moines, IA 50319

**IX. APPLICABLE LAW**

This Agreement is to be governed by the laws of the State of Iowa.

**X. FILING AND RECORDING**

It is agreed the Board will electronically file this Agreement with the Secretary of State, and electronically file any amendment, modification, or notice of termination of this Agreement within thirty days as provided in Iowa Code section 28E.8 (2007).

**IN WITNESS WHEREOF**, and in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the parties have entered into this 28E Agreement and have caused their duly authorized representatives to execute this 28E Agreement.

**IOWA COMPREHENSIVE PETROLEUM  
UNDERGROUND STORAGE TANK  
FUND BOARD**

**IOWA DEPARTMENT OF NATURAL  
RESOURCES**

BY: \_\_\_\_\_  
Susan Voss, Chair

BY: \_\_\_\_\_  
Richard Leopold, Director

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

## **B. NFA 28E Agreement**

**28E AGREEMENT**  
**BETWEEN THE IOWA COMPREHENSIVE PETROLEUM UNDERGROUND**  
**STORAGE TANK FUND BOARD, AND THE IOWA DEPARTMENT OF NATURAL**  
**RESOURCES FOR ASSESSMENT AND CORRECTIVE ACTION AT LUST SITES FOR**  
**WHICH A "NO FURTHER ACTION" CERTIFICATE HAS BEEN ISSUED**

This Agreement is entered into by and between the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board (hereinafter "Board"), with its Administrator's office located at 2700 Westown Parkway, Suite 320, W. Des Moines, Iowa 50266, and the Iowa Department of Natural Resources (hereinafter "DNR"), located at 502 E. 9th Street, Des Moines, IA 50319. This Agreement is entered into pursuant to Chapter 28E of the Code of Iowa and Iowa Code sections 455G.5 and 455G.6(15), and is effective as of the date it is fully executed by all parties.

**I. PURPOSE**

The purpose of this Agreement is to implement the provisions of Iowa Code section 455G.9(1)(k) (2007). The Parties hereby establish the terms under which the Board will provide for assessment and corrective action arising out of releases at leaking underground storage tank sites ("LUST sites") for which the DNR determines that an unreasonable risk to public health and safety may still exist subsequent to issuing a "no further action" ("NFA") certificate pursuant to Iowa Code section 455B.474. The Parties do not intend to create a separate legal entity under this Agreement.

**II. TERM**

This Agreement shall be in effect for an indefinite period of time unless terminated in accordance with this Agreement.

**III. ADMINISTRATION**

This Agreement shall be jointly administered by the Board and its Administrator and the Director of the DNR or the Director's designee. All administrative decisions concerning this Agreement shall be undertaken pursuant to the terms outlined herein.

**IV. ACQUIRING AND HOLDING OF PROPERTY UNDER THIS AGREEMENT**

All real and personal property used or acquired under the terms of this Agreement shall be held in the name of the Board.

**V. ELIGIBLE LUST SITES**

For a UST Site to be eligible for assessment and corrective action under this Agreement, the DNR must deliver to the Board a written finding that an unreasonable risk to public health and safety may exist at the site. The written finding shall document: (1) evidence the release for which the NFA certificate was issued is a likely source of the unreasonable risk, (2) any release occurring after the release for which the NFA certificate was issued that may contribute to the unreasonable risk, (3) the location of the petroleum UST that is the source of the release, and (4) document the nature and scope of the unreasonable risk.



Notwithstanding a written finding that an unreasonable risk to public health and safety may exist at a Site, Sites may not be eligible for assessment and corrective action under this Agreement when the:

1. Board or its Administrator determines that the DNR had actual knowledge, or should have known, the NFA certificate was issued without substantial compliance with agency rules unless issuance of the NFA certificate was reviewed and approved by the Administrator or a qualified representative;
2. NFA certificate was issued with disregard for factual, technical, procedural or other material errors or omissions that were known or should have been known at the time of issuance by the party to which the certificate was issued;
3. unreasonable risk at the site is solely due to a change in regulations by the Environmental Protection Commission;
4. unreasonable risk at the site is solely due to an impact of a chemical that was not identified as a "chemical of concern" at the time the NFA certificate was issued;
5. Board or its Administrator determine unreasonable risk at the site is solely due to non-compliance with the terms of an institutional control for which the DNR relied upon to approve the no action required classification and issuance of the NFA certificate such as a local ordinance, environmental covenant, or other technological control, or the permitting of a receptor creating an unreasonable risk, unless the terms of the institutional control cannot reasonably be enforced, the condition causing the unreasonable risk was produced by lawful actions, or a third party assumes responsibility to correct the condition causing the unreasonable risk; or
6. unreasonable risk at the site is caused exclusively by a release occurring after the release for which the NFA certificate was issued.

The Board, in consultation with the DNR, may agree on a case-by-case basis to the eligibility of a site for assessment and corrective action not otherwise eligible under the terms of this Agreement.

## **VI. ELIGIBLE COSTS**

When a site is eligible for assessment and corrective action under this Agreement because the DNR determines an unreasonable risk to public health and safety may still exist as provided in paragraph V, the Board agrees to provide for the following assessment and corrective action activities, up to \$100,000 total (unless a greater amount is approved by the Board), and subject to the prioritization rules established by the Board, at eligible sites pursuant to this Agreement:

1. assessment of an actual impact to a receptor to determine the nature and scope of risk to public health and safety;
2. corrective action necessary to reduce or remove contamination actually impacting a receptor, or remove or relocate a receptor, until an unreasonable risk to public health is no longer present;

3. new releases occurring after the release for which the NFA certificate was issued that create an emergency condition (i.e., immediate and imminent threat to public health); otherwise, only after funding from other UST financial responsibility mechanisms are exhausted; and
4. any additional assessment, including assessment for the presence of risk, and corrective action activities the Board, in consultation with the DNR, may agree to provide for on a case-by-case basis.

In reviewing eligibility for assessment and corrective action funding under this paragraph, the parties acknowledge that the DNR's guidance, as amended with the written consent of the parties, will serve as non-binding guidance in evaluating what assessment and corrective action may be warranted and funded under this agreement.

Any assessment and corrective action activities under this Agreement exceeding \$100,000 shall be subject to review and approval by the Board. Any costs, however, associated with the use of State employees, equipment, and materials are not eligible for reimbursement pursuant to this Agreement.

Unless emergency conditions exist, assessment and corrective actions performed pursuant to this Agreement shall have the budget for the work approved by the Board administrator prior to commencement of the work. No expense incurred which is above the budgeted amount shall be paid unless the Board administrator approves such expense prior to its being incurred. All invoices or bills shall be submitted with appropriate documentation as deemed necessary by the Board, no later than thirty days after the work has been performed. The Board is not responsible for payment for work incurred which has not been previously approved by the Board.

## **VII. RESPONSIBILITIES**

The DNR and the Board shall retain all powers and duties conferred by their respective enabling acts, but shall assist each other in the exercise of these powers and the performance of these duties in the following manner:

### **A. DNR RESPONSIBILITIES**

1. Ensure that access to the site for assessment and corrective action activities is granted by the owner of an eligible site.
2. Approve assessment and corrective action activities necessary and proper to confirm, reduce or eliminate the identified unreasonable risk to public health.
3. Maintain records that identify (1) all LUST sites considered "eligible sites" under this Agreement, and (2) all LUST sites for which assessment or corrective action activities are provided for under this Agreement.
4. Obtain input from the Board as needed to fulfill the provisions of this Agreement.

5. Cooperate and assist with Board cost recovery efforts.
6. Assist and cooperate with the Board in developing any professional services contracting documents necessary to implement the terms of this Agreement.

**B. BOARD RESPONSIBILITIES**

1. Contract with qualified groundwater professionals to perform services required pursuant to this Agreement.
2. Provide funds used exclusively to compensate contractors retained pursuant to this Agreement, and to pay for all other eligible costs incurred to fulfill the provisions of this Agreement.
3. Maintain itemized records of funds expended pursuant to this Agreement for each eligible site that allow the Parties to determine the actual cost of assessment and corrective action activities.
4. Provide input to the DNR as needed to fulfill the provisions of this Agreement.

**VIII. FINANCING**

The Board shall pay all costs associated with the administration of this Agreement in accordance with the terms of this Agreement.

**IX. AMENDMENT**

This Agreement may be amended from time to time by written agreement of the Parties. The Parties agree to meet at least every two (2) years from the effective date of this Agreement to review its terms and discuss potential amendments. All amendments shall be in writing, signed by both Parties, and filed with the Secretary of State and recorded with the Polk County Recorder.

**X. TERMINATION**

**A. Termination Upon Mutual Consent.** This Agreement may be terminated upon the mutual written consent of the parties.

**B. Termination By One Party.** Notwithstanding anything in this Agreement to the contrary, and subject to the limitations, conditions, and procedures set forth below, either party to this Agreement shall have the right to terminate this Agreement without penalty by giving sixty (60) days' written notice to the other party to the Agreement as a result of any of the following:

1. There are insufficient funds available to allow a party to fulfill its obligations under this Agreement;

2. A change in the law prevents or substantially impairs a party's ability to participate in this Agreement; or

3. Failure to perform responsibilities described in this Section VII of this Agreement at a quality or quantity that can be reasonably expected by the other party.

## **XI. NOTICES**

Whenever notices and correspondence are to be given under this Agreement, the notices shall be given by personal delivery to the other party, or sent by mail, postage prepaid, to the other party as follows:

### To the Board

Iowa UST Fund Board  
2700 Westown Parkway, Suite 320  
W. Des Moines, Iowa 50266

### To the DNR

Iowa Department of Natural Resources  
UST Section  
502 E. 9th Street  
Des Moines, IA 50319

## **XII. APPLICABLE LAW**

This Agreement is to be governed by the laws of the State of Iowa.

## **XIII. FILING AND RECORDING**

It is agreed the Board will electronically file this Agreement with the Secretary of State, and electronically file any amendment, modification, or notice of termination of this Agreement within thirty days as provided in Iowa Code section 28E.8, as amended by 2007 Iowa Acts.

## **XIV. NO THIRD PARTY BENEFICIARY RIGHTS**

The rights and responsibilities of this Agreement are limited solely to parties herein, and this Agreement is not intended to convey a benefit, right, or entitlement of any kind to a party who is not a party to this Agreement. Any benefit to a third party resulting from or related to this Agreement is merely incidental and creates no legal right in a third party to enforce any provision of this Agreement against a party hereto.

## **XV. LIMITED SCOPE OF AGREEMENT**

Except as specifically addressed in this Agreement, the Agreement shall not affect the rights and responsibilities of the Board and the DNR contained in the Iowa Code and the Iowa Administrative Code.

**IN WITNESS WHEREOF**, and in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the parties have entered into this 28E Agreement and have caused their duly authorized representatives to execute this 28E Agreement.

**IOWA COMPREHENSIVE PETROLEUM  
UNDERGROUND STORAGE TANK  
FUND BOARD**

**IOWA DEPARTMENT OF NATURAL  
RESOURCES**

BY: \_\_\_\_\_  
Susan Voss, Chair

BY: \_\_\_\_\_  
Richard Leopold, Director

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

## **C. DNR Funding Discussion (FY09)**

**28E AGREEMENT**  
**BETWEEN the IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE  
TANK FUND BOARD, and the IOWA DEPARTMENT OF NATURAL RESOURCES for  
FUNDING AND MANAGEMENT of the UNDERGROUND STORAGE TANK SECTION  
of the IOWA DEPARTMENT OF NATURAL RESOURCES FOR FISCAL YEAR 2009**

This Agreement is entered into by and between the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board (hereinafter "Board"), with its Administrator's office located at 2700 Westown Parkway, Suite 320, W. Des Moines, Iowa 50266, and the Iowa Department of Natural Resources (hereinafter "DNR"), located at 502 E. 9th Street, Des Moines, IA 50319. This Agreement is entered into pursuant to Chapter 28E of the Code of Iowa, and is effective as of the date it is fully executed by all parties.

**I. PURPOSE**

The purpose of this Agreement is to establish the terms under which the Board will provide funding pursuant Iowa Code section 455G.6(15)"a." The Board agrees to provide the DNR with funds in an amount equivalent to the UST tank management fees collected and allocated to the Board pursuant to Iowa Code sections 455B.479 and 455G.8"3." The Parties do not intend to create a separate legal entity under this Agreement, and no real or personal property will be used or acquired under the terms of this Agreement.

**II. TERM**

The term of this Agreement shall begin upon execution hereof by all parties hereto and shall run through June 30, 2009, unless otherwise terminated or extended pursuant to the terms of this Agreement.

**III. DNR RESPONSIBILITIES**

**Milestone 1:** By January 2, 2009, the DNR shall:

- a. Examine a subset low risk sites for which monitoring has been conducted for more than five years. Identify a set of conditions and / or criteria for which low risk sites may be eligible for closure on a case-by-case basis; and,
- b. Conduct meetings with DNR, Fund, and DPH staff to review literature on the affects of petroleum on plastic water line integrity. Prepare a report of findings, and recommendations for policy or rule change considerations, and /or broadening a focus group make policy; and,
- c. Form technical advisory group(s) to evaluate other RBCA rules including, but not limited to, (1) soil gas methodology and guidance, (2) sewers as receptors, (3) surface water restrictions, and (4) capturing effect of time on historical releases; and;
- d. conduct a meeting between representatives of the DNR central office and the DNR field offices to review UST/LUST priorities and accomplishments since October 1, 2008, and to set UST/LUST

priorities for the time period from January 2, 2009, to April 1, 2009. Prepare written report detailing activities performed during the previous quarter, reconciling those activities to the established priorities and establishing the priority list for the next quarter.

**Milestone 2:** By April 1, 2009, the DNR shall:

- a. Upon examination of low risk sites in long-term monitoring, develop broad criteria for when low risk sites generally may be closed. Develop draft policy and / or rule changes; and
- b. Convene a PWL advisory group to focus on RBCA policy changes. Develop policy changes, guidelines and or draft rule changes for the plastic water line pathway; and,
- c. Conduct meeting(s) with technical advisory group(s) formed in Milestone 1 for evaluation of other RBCA rules including, but not limited to, (1) soil gas methodology and guidance, (2) sewers as receptors, (3) surface water restrictions, and (4) capturing effect of time on historical releases; and,
- d. Conduct a meeting between representatives of the DNR central office and the DNR field offices to review UST/LUST priorities and accomplishments since January 2, 2009, and to set UST/LUST priorities for the time period from April 1, 2009, to June 30, 2009. Prepare written report detailing activities performed during the previous quarter, reconciling those activities to the established priorities and establishing the priority list for the next quarter.

**Milestone 3:** By June 30, 2009, the DNR shall:

- a. Implement final "low risk" site closure policy or rule jointly agreed upon by DNR and Board;
- b. Using the information gained during completion of Milestones 1 and 2, complete review of available actual experiential data and scientific studies and draft jointly agreed revisions to RBCA rules for plastic water lines; and
- c. Using the information gained during completion of Milestone 2, and in cooperation with the Board, prepare a written plan for the evaluation of other RBCA rules including, but not limited to, (1) soil gas methodology and guidance, (2) sewers as receptors, (3) surface water restrictions, and (4) capturing effect of time on historical releases; and
- d. conduct a meeting between representatives of the DNR central office and the DNR field offices to review UST/LUST priorities



and accomplishments since April 1, 2009, and to set UST/LUST priorities for the time period from July 1, 2009, to October 1, 2009. Prepare written report detailing activities performed during the previous quarter, reconciling those activities to the established priorities and establishing the priority list for the next quarter.

#### **IV. BOARD RESPONSIBILITIES**

The Board shall provide the DNR with funds, subject to contingencies stated in this section, in an amount equivalent to the UST tank management fees collected and allocated to the Board during the term of this Agreement. The Board has estimated such tank management fees to be approximately Three Hundred Eighty-Five Thousand Dollars (\$385,000), and it shall pay this amount in quarterly installments of Ninety-Six Thousand Five Hundred Dollars (\$96,500), commencing on October 2, 2008, and thereafter on January 2, 2009, April 2, 2009, and June 29, 2009. If by June 29, 2009, the Board determines the actual amount the UST tank management fees allocated to the Board during the term of this Agreement varies from the estimated amount of \$385,000 by 10% or more, the Board shall adjust the June 29, 2009 installment accordingly to reflect the actual amount allocated to the Board. If, however, the variance between the estimated amount of UST tank management fees allocated to the Board during the term of this Agreement and the actual amount is less than 10%, the final installment shall remain unchanged.

#### **V. FINANCING**

The Board shall pay all costs associated with the administration of this Agreement in accordance with the terms of Section IV of this Agreement. The DNR shall use the funds provided by the Board exclusively for the operation of the DNR's UST Section. Use of the funds for any other DNR sections or programs is not authorized by this Agreement. DNR shall not seek additional funding from any of the funds maintained by the Board, other than through this agreement or the amendment of this agreement. Nothing in this agreement shall limit DNR ability to seek legislative changes to the tank tag deposits for fiscal year 2010.

#### **VI. AMENDMENT**

This Agreement may be amended from time to time by written agreement of the Parties. All amendments shall be in writing, signed by both Parties, and filed with the Secretary of State.

#### **VII. TERMINATION**

**A. Termination Upon Mutual Consent.** This Agreement may be terminated upon the mutual written consent of the parties.

**B. Termination By One Party.** Notwithstanding anything in this Agreement to the contrary, and subject to the limitations, conditions, and procedures set forth below, either party to this Agreement shall have the right to terminate this Agreement without penalty by giving sixty (60) days' written notice to the other party to the Agreement as a result of any of the following:

1. There are insufficient funds or staffing resources available to allow a party to fulfill its obligations under this Agreement; or

2. A change in the law prevents or substantially impairs a party's ability to participate in this Agreement.

3. The DNR fails to meet two consecutive Milestone requirements set forth in Section III of this Agreement.

## VIII. NOTICES

Whenever notices and correspondence are to be given under this Agreement, the notices shall be given by personal delivery to the other party, or sent by mail, postage prepaid, to the other party as follows:

### To the Board

Iowa UST Fund Board  
2700 Westown Parkway, Suite 320,  
W. Des Moines, Iowa 50266

### To the DNR

Iowa Department of Natural Resources  
UST Section  
502 E. 9th Street  
Des Moines, IA 50319

## IX. APPLICABLE LAW

This Agreement is to be governed by the laws of the State of Iowa.

## X. FILING AND RECORDING

It is agreed the Board will electronically file this Agreement with the Secretary of State, and electronically file any amendment, renewal, or notice of termination of this Agreement within thirty days as provided in Iowa Code section 28E.8.

**IN WITNESS WHEREOF**, and in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the parties have entered into this 28E Agreement and have caused their duly authorized representatives to execute this 28E Agreement.

**IOWA COMPREHENSIVE PETROLEUM  
UNDERGROUND STORAGE TANK  
FUND BOARD**

**IOWA DEPARTMENT OF NATURAL  
RESOURCES**

BY: \_\_\_\_\_  
Susan Voss, Chair

BY: \_\_\_\_\_  
Richard Leopold, Director

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

## **D. LPT Proposal**

## **E. DNR Update**

## **Approval of Program Billings**



# IOWA UNDERGROUND STORAGE TANK

## Financial Responsibility Program

Susan E. Voss, *Chairperson*

Scott M. Scheidel, *Administrator*

Board Members: Michael L. Fitzgerald

Jeff W. Robinson

Jacqueline A. Johnson

James M. Holcomb

Richard A. Leopold

Nancy A. Lincoln

Douglas M. Beech

### MEMORANDUM

TO: UST Board Members  
FROM: Scott Scheidel  
DATE: September 18, 2008  
SUBJECT: Summary of Bills for Payment

#### \*NOTICE\*

The following is a summary of UST bills requiring Board approval for payment:

1. Aon Risk Services .....\$122,726.00  
Consulting Services October 2008 -- \$67,513.00  
Claims Processing Services October 2008 -- \$55,213.00
2. Attorney General's Office .....\$14,608.39  
Services provided for Underground Storage Tank Program  
July and August 2008 Billing

**Iowa Comprehensive Petroleum**

Invoice No. 9500000067362

Iowa Comprehensive Petroleum  
Underground Storage Tank Fund  
2700 Westown Pkwy, #320  
West Des Moines IA 50266

Aon Risk Services Central, Inc.  
fka Aon Risk Services, Inc. of Nebraska  
Insurance Services CA License No OE16975  
2700 Westown Parkway  
Suite 320  
West Des Moines IA 50266  
(515) 267-9101 FAX (515) 267-9045

Client Account No.  
10756349

Invoice Date  
Sep-02-2008

Currency  
US DOLLAR

Account Executive  
Scott Scheidel

Named Insured	Service Term	Trans. Eff. Date	Description	Amount
Iowa Comprehensive Petroleum	Jan-01-2008 - Jan-01-2009	Oct-01-2008	Renewal - Service Fee	
Comments			Service Fee	62,513.00
Installment 10 of 12			Consulting Expense	5,000.00
			TOTAL INVOICE AMOUNT DUE	67,513.00

TO AVOID POTENTIAL DISRUPTION IN COVERAGE, PLEASE PAY IMMEDIATELY.  
For Wire instructions, contact your Account Executive.

*Please see reverse side for statement regarding Aon compensation.*

Page 1 of 1

This is a Reprint of an Existing Invoice

Please detach here. Top portion is for your records, bottom portion to be returned with your payment.

Client Account No.	Invoice No.	Invoice Date	Currency	Amount Due
10756349	9500000067362	Sep-02-2008	US DOLLAR	67,513.00

Iowa Comprehensive Petroleum  
Underground Storage Tank Fund  
2700 Westown Pkwy, #320  
West Des Moines IA 50266

**Send remittance to:**

Aon Risk Services Central, Inc.  
Aon Risk Services Companies, Inc.  
75 Remittance Drive - Suite 1943  
Chicago IL 60675-1943

## Iowa Comprehensive Petroleum

Invoice No. 9500000067363

Iowa Comprehensive Petroleum  
Underground Storage Tank Fund  
2700 Westown Pkwy, #320  
West Des Moines IA 50266



Aon Risk Services Central, Inc.  
fka Aon Risk Services, Inc. of Nebraska  
Insurance Services CA License No OE16975  
2700 Westown Parkway  
Suite 320  
West Des Moines IA 50266  
(515) 267-9101 FAX (515) 267-9045

Client Account No.	Invoice Date	Currency	Account Executive
10756349	Sep-02-2008	US DOLLAR	Scott Scheidel

Named Insured	Service Term	Trans. Eff. Date	Description	Amount
Iowa Comprehensive Petroleum	Jan-01-2008 - Jan-01-2009	Oct-01-2008	Renewal - Service Fee	
Comments			Service Fee	0.00
Installment 10 of 12			Consulting Expense	55,213.00
			TOTAL INVOICE AMOUNT DUE	55,213.00

**TO AVOID POTENTIAL DISRUPTION IN COVERAGE, PLEASE PAY IMMEDIATELY.**  
For Wire instructions, contact your Account Executive.

Please see reverse side for statement regarding Aon compensation.

Page 1 of 1

▼ Please detach here. Top portion is for your records, bottom portion to be returned with your payment. ▼

Client Account No.	Invoice No.	Invoice Date	Currency	Amount Due
10756349	9500000067363	Sep-02-2008	US DOLLAR	55,213.00

Iowa Comprehensive Petroleum  
Underground Storage Tank Fund  
2700 Westown Pkwy, #320  
West Des Moines IA 50266

## Send remittance to:

Aon Risk Services Central, Inc.  
Aon Risk Services Companies, Inc.  
75 Remittance Drive - Suite 1943  
Chicago IL 60675-1943



IOWA ATTORNEY GENERAL'S OFFICE  
Hoover State Office Bldg - 2nd Floor  
Des Moines, Iowa 50319-0141



Invoice Date: 09/03/08

**Buyer:** Aon Risk Services  
2700 Westown Pkwy, Ste 320  
West Des Moines, IA 50266  
Attn: Scott Scheidel

**Seller:** Iowa Attorney General's Office  
Hoover State Office Bldg - 2nd Floor  
Des Moines, IA 50319-0141

**Services For:** Assistant Attorneys General  
**Period of Service:** July and August

---

Please use the following accounting information for (II) transfer/payment:

Document Number	Fund	Agency	Account Coding Org Sub Org	Rev Source	Description	Amount
112AG090308027	0001	112	2301	0285		\$ 14,608.39
					Payment Received 8/12/08	(105,000.00)
					Credit Remaining	(90,391.61)

---

Please direct billing questions to Karen Redmond at (515)281-6362.

**Iowa Attorney General's Office**  
**Invoiced Services**

Billing Period:	July & August
Billing Total:	\$14,608.39
DSS @ 33%	\$309.67
TDB @ 25%	\$232.74
RCH @ 25%	\$139.80
CLJ @ 50%	\$213.98
Payroll: 7/10/08 (FY08)	\$896.19
DSS @ 33%	\$1,548.62
TDB @ 25%	\$1,163.82
RCH @ 15%	\$419.77
CLJ @ 25%	\$535.00
Payroll: 7/10/08 (Total)	\$3,667.21
(less FY08)	(\$896.19)
DSS @ 33%	\$1,860.38
TDB @ 25%	\$1,345.02
RCH @ 15%	\$563.44
CLJ @ 25%	\$775.60
Payroll: 7/24/08	\$4,544.44
Imputed Income Reimbursement 7/1/08	(\$2.15)
Imputed Income Reimbursement 8/1/08	(\$1.29)
Total Misc:	(\$3.44)
	\$14,608.39

**DSS = David Steward**

33%

Dave is our Asst Attorney General who provides the Board with legal counsel, drafts agreements and settlements with other State agencies and claimants.

**TDB = Timothy Benton**

25%

Tim is our other Asst Attorney General who provides the Board with the coordination of administrative hearings on UST Fund claim denial appeals, as well as the negotiation of any settlements.

**RCH = Richard Heathcote**

15%

Rich is a PhD hydrogeologist who consults for the Board by reviewing claim files and DNR records to assist in the determination of technologies used at sites. Rich reviews site files for the usage of RBCA Tier 3 reports; he also reviews proposals for CRP's or special projects.

**CLJ = Cindy Jacobs**

25%

Cindy is a legal secretary for the Environmental/UST Division of the Attorney General's Office located in the Lucas Building. Cindy completes status reports and maintains appeal files for UST claimants with regard to their UST Fund benefits' eligibility.

Billing Period:	July & August
DSS @ 33%	\$1,548.62
TDB @ 25%	\$1,163.82
RCH @ 15%	\$419.43
CLJ @ 25%	\$534.94
Payroll: 8/7/08	\$3,666.81
DSS @ 33%	\$1,531.24
TDB @ 25%	\$1,160.03
RCH @ 15%	\$415.98
CLJ @ 25%	\$522.31
Payroll: 8/21/08	\$3,629.56

## **Monthly Activity Report and Financials Reviewed**

## **A. August Activity Report**

## **B. August Financial Report**

# IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND

## STATEMENT OF FUND BALANCES

FOR THE MONTH ENDING AUGUST 31, 2008

### 0471 - UST REVENUE FUND (Bonding)

<b>Balance of Fund, August 1, 2008</b>		\$0.00
<b>Receipts:</b>		
Tank Management Fees	\$385,000.00	
Motor Vehicle Use Tax	\$0.00	
Intra State Fund Transfers Received	\$0.00	
Interest Income	\$0.00	
Interest Income - Capital Reserve Fund	\$0.00	
	<u>\$0.00</u>	
		\$385,000.00
<b>Disbursements:</b>		
Bond Interest Payment	\$0.00	
Bond Principal Payment	\$0.00	
Transfer to Innocent Landowner Fund	\$0.00	
Transfer to Unassigned Revenue Fund	\$0.00	
	<u>\$0.00</u>	
		\$0.00
<b>Balance of Fund, August 31, 2008</b>		<u><u>\$385,000.00</u></u>

### 0450 - UST UNASSIGNED REVENUE FUND (Non-Bonding)

<b>Balance of Fund, August 1, 2008</b>		\$7,529,316.39
<b>Receipts:</b>		
Request for Proposal Fees	\$0.00	
Copying/Filing Fees	\$0.00	
Fines & Penalties	\$3,502.50	
Refund/Overpayment	\$0.00	
Transfer From UST Revenue Fund	\$0.00	
Intra State Fund Transfers Received - DNR	\$0.00	
Compensation for Pooled Money Investments	\$0.00	
Amort / Accretion	\$375.96	
Buys/ Sells	\$7.55	
Interest Income	\$64,881.28	
	<u>\$64,881.28</u>	
		\$68,767.29
<b>Disbursements:</b>		
UST Administrator's Fees	\$0.00	
Attorney General's Fees	\$106,534.67	
Attorney's Fees: Cost-Recovery Administration	\$0.00	
Cost Recovery Expense (i.e. Lien Filing, Overpayment Refund)	\$0.00	
Actuarial Fees	\$0.00	
Auditor of the State Fees	\$4,876.00	
Bond Trustee Fees - Bankers Trust	\$0.00	
Claim Settlement	\$0.00	
Custodial Fees - BONY	\$392.87	
Department of Revenue EPC Collection Fees	\$1,425.78	
Innovative Technology	\$0.00	
Inspection & Appeals Service Fees	\$0.00	

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND**  
**STATEMENT OF FUND BALANCES**  
**FOR THE MONTH ENDING AUGUST 31, 2008**

Iowa Finance Authority Expenses	\$0.00	
Legal and Professional Fees	\$24,515.25	
Postage / Printing / Miscellaneous	\$0.00	
Professional Administrative Services (Investments, etc.)	\$8,629.30	
Rebate	\$0.00	
Tank Closure Claims & Plastic Waterline Claims	\$1,543.30	
Travel Expenses-UST Board Members	\$112.32	
Warrant Float Expense	\$3,291.69	
Transfer to Remedial Non-Bonding Fund	\$0.00	
Transfer to Innocent Landowner Fund	\$0.00	
28E Agreement - RBCA (DNR Staff Training & Development)	\$0.00	
28E Agreement - DNR UST Section Funding - FY08	\$229,797.00	
28E Agreement - DNR UST Section Funding - FY09	\$0.00	
Statutory Transfer to DNR - FY09	\$0.00	
Statutory Transfer to General Fund - FY08	\$0.00	
Statutory Transfer to DNR - FY09 for Snowmobile & ATV Funds	\$0.00	
		\$381,118.18

<b>Balance of Fund, August 31, 2008</b>	<b>\$7,216,965.50</b>
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**0208 - UST REMEDIAL NON-BONDING FUND**

<b>Balance of Fund, August 1, 2008</b>	<b>\$5,284,538.17</b>
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**Receipts:**

Remedial Refunds	\$0.00	
Misc. Income (i.e. eligibility settlements)	\$0.00	
Interest Income	\$0.00	
Transfer Received from Unassigned Revenue Fund	\$0.00	
		\$0.00

**Disbursements:**

Retroactive Claims	\$23,024.23	
Remedial Claims	\$479,821.38	
Balance of Outdated Warrants	\$0.00	
		\$502,845.61

<b>Balance of Fund, August 31, 2008</b>	<b>\$4,781,692.56</b>
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**0478 - UST MARKETABILITY FUND**

<b>Balance of Fund, August 1, 2008</b>	<b>\$225,121.93</b>
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**Receipts:**

Interest	\$60,640.41	
Use Tax	\$0.00	
		\$60,640.41

**Disbursements:**

Intra State Fund Transfer	\$0.00	
		\$0.00

<b>Balance of Fund, August 31, 2008</b>	<b>\$285,762.34</b>
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**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND  
STATEMENT OF FUND BALANCES  
FOR THE MONTH ENDING AUGUST 31, 2008**

**0485 - UST INNOCENT LANDOWNERS FUND**

<b>Balance of Fund, August 1, 2008</b>		<b>\$10,135,550.91</b>
<b>Receipts:</b>		
Cost Recovery (i.e. lien settlements)	\$0.00	
ILO Refunds	\$0.00	
Intra State Fund Transfers Received	\$0.00	
Miscellaneous Income	\$0.00	
	<u>          </u>	
		\$0.00
<b>Disbursements:</b>		
Transfer to Unassigned Revenue Fund	\$0.00	
Other Contractual Services	\$0.00	
Global Settlement Claims	\$20,874.18	
Innocent Landowner Claims	\$86,512.09	
Balance of Outdated Warrants	\$0.00	
	<u>          </u>	
		\$107,386.27
<b>Balance of Fund, August 31, 2008</b>		<u><u><b>\$10,028,164.64</b></u></u>

**0238 - UST LOAN GUARANTEE FUND (Non-Bonding)**

<b>Balance of Fund, August 1, 2008</b>		<b>\$262,465.41</b>
<b>Receipts:</b>		
Interest Income	\$3,389.59	
	<u>          </u>	
		\$3,389.59
<b>Disbursements:</b>		
Intra State Fund Transfer	\$0.00	
Payments on Loan Losses	\$0.00	
	<u>          </u>	
		\$0.00
<b>Balance of Fund, August 31, 2008</b>		<u><u><b>\$265,855.00</b></u></u>

**0614 - UST CAPITAL RESERVE FUNDS (Bonding)**

<b>Balance of Fund, August 31, 2008</b>		<u><u><b>\$0.00</b></u></u>
<b>Combined UST Capital Reserve Fund Balances, August 31, 2008</b>		<u><u><b>\$0.00</b></u></u>
<b>TOTAL FUND BALANCES, August 31, 2008</b>		<u><u><b>\$22,963,440.04</b></u></u>

**FOOTNOTES:**

Note 1: Funds labeled "Bonding" were created as a result of the issuance of UST Revenue Bonds. Disbursements from these funds are restricted by the Revenue Bond indenture. All bond funds are \$0.00 8/31/08  
Funds labeled "Non-Bonding" are funds not restricted as to use by the Revenue Bond indenture.



**C. Year to Date Financial Report as of August 31, 2008**

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND**  
**STATEMENT OF FUND BALANCES**  
**FISCAL YEAR TO DATE ENDING AUGUST 31, 2008**

		FISCAL 2009 BUDGET	
0471 - UST REVENUE FUND (Bonding)			
Balance of Fund, July 1, 2008		\$0.00	\$0.00
Receipts:			
Tank Management Fees	\$385,000.00		\$800,000.00
Motor Vehicle Use Tax	\$0.00		\$17,000,000.00
Intra State Fund Transfers Received	\$0.00		
Interest Income	\$0.00		
Interest Income - Capital Reserve Fund	\$0.00		
		\$385,000.00	\$17,800,000.00
Disbursements:			
Bond Interest Payment	\$0.00		
Bond Principal Payment	\$0.00		
Transfer to Innocent Landowner Fund	\$0.00		\$4,250,000.00
Transfer to Unassigned Revenue Fund	\$0.00		\$13,550,000.00
		\$0.00	\$17,800,000.00
Balance of Fund, August 31, 2008		\$385,000.00	\$0.00
0450 - UST UNASSIGNED REVENUE FUND (Non-Bonding)			
Balance of Fund, July 1, 2008		\$10,303,265.43	\$10,303,265.43
Receipts:			
Request for Proposal Fees	\$0.00		
Copying/Filing Fees	\$0.00		
Fines & Penalties	\$5,190.00		\$10,000.00
Refund/Overpayment	\$1,416.54		
Transfer From UST Revenue Fund	\$0.00		\$13,550,000.00
Intra State Fund Transfers Received	\$0.00		
Compensation for Pooled Money Investments	\$0.00		
Amort / Accretion	(\$143.60)		\$30,000.00
Buys/ Sells	\$7,635.24		(\$20,000.00)
Interest Income	\$545,413.48		\$1,800,000.00
		\$559,511.66	\$15,370,000.00
Disbursements:			
UST Administrator's Fees	\$245,452.00		\$1,412,712.00
Attorney General's Fees	\$112,319.17		\$105,000.00
Attorney's Fees: Cost-Recovery Administration	\$0.00		
Cost Recovery Expense (i.e. Lien Filing, Overpayment Refund)	\$7.00		\$30.00
Actuarial Fees	\$0.00		
Auditor of the State Fees	\$4,876.00		\$4,876.00
Bond Trustee's Fees - Bankers Trust	\$3,000.00		\$36,000.00
Claim Settlement	\$0.00		\$1,050,000.00
Custodial Fees - BONY	\$392.87		
Department of Revenue EPC Collection Fees	\$1,425.78		\$6,000.00
Environmental Protection Charge Refunds	\$0.00		
Innovative Technology	\$0.00		
Inspection & Appeals Service Fees	\$0.00		\$3,500.00

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND**  
**STATEMENT OF FUND BALANCES**  
**FISCAL YEAR TO DATE ENDING AUGUST 31, 2008**

		<b>FISCAL 2009 BUDGET</b>
Legal and Professional Fees	\$24,515.25	
Postage / Printing / Miscellaneous	\$0.00	\$100.00
Professional Admin Services (Investments)	\$8,629.30	\$30,000.00
Rebate	\$0.00	
Tank Closure Claims and Plastic Waterline Claims	\$12,629.10	\$50,000.00
Travel Expenses-UST Board Members	\$132.60	\$700.00
Warrant Float Expense	\$2,635.52	
Transfer to Remedial Non-Bonding Fund	\$0.00	\$4,250,000.00
Transfer to Innocent Landowner Fund	\$0.00	
28E Agreement - RBCA (DNR Staff Training & Development)	\$0.00	
28E Agreement - DNR UST Section Funding - FY08	\$229,797.00	\$400,000.00
28E Agreement - DNR UST Section Funding - FY09	\$0.00	\$400,000.00
Statutory Transfer to DNR (Snowmobile & ATV Funds) - FY09	\$0.00	\$1,925,000.00
Statutory Transfer to General Fund - FY08	\$3,000,000.00	\$3,000,000.00
	\$3,645,811.59	\$12,673,918.00
<b>Balance of Fund, August 31, 2008</b>	<b>\$7,216,965.50</b>	<b>\$12,999,347.43</b>
<b>0208 - UST REMEDIAL NON-BONDING FUND</b>		
<b>Balance of Fund, July 1, 2008</b>	\$5,734,239.12	\$5,734,239.12
<b>Receipts:</b>		
Remedial Refunds	\$0.00	\$3,000.00
Misc. Income (i.e. eligibility settlements)	\$0.00	
Interest Income	\$0.00	
Transfer Received from Unassigned Revenue	\$0.00	\$4,250,000.00
	\$0.00	\$4,253,000.00
<b>Disbursements:</b>		
Retroactive Claims	\$45,377.92	\$600,000.00
Remedial Claims	\$907,063.57	\$7,000,000.00
Balance of Outdated Warrants	\$105.07	
	\$952,546.56	\$7,600,000.00
<b>Balance of Fund, August 31, 2008</b>	<b>\$4,781,692.56</b>	<b>\$2,387,239.12</b>
<b>0478 - UST MARKETABILITY FUND</b>		
<b>Balance of Fund, July 1, 2008</b>	\$101,715.84	\$101,715.84
<b>Receipts:</b>		
Interest	\$184,046.50	\$200,000.00
Use Tax	\$0.00	
	\$184,046.50	\$200,000.00
<b>Disbursements:</b>		
Intra State Fund Transfer	\$0.00	
	\$0.00	\$0.00
<b>Balance of Fund, August 31, 2008</b>	<b>\$285,762.34</b>	<b>\$301,715.84</b>

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND  
STATEMENT OF FUND BALANCES  
FISCAL YEAR TO DATE ENDING AUGUST 31, 2008**

		FISCAL 2009 BUDGET	
<b>0485 - UST INNOCENT LANDOWNERS FUND</b>			
<b>Balance of Fund, July 1, 2008</b>		\$10,192,565.89	\$10,192,565.89
<b>Receipts:</b>			
Cost Recovery (i.e. lien settlements)	\$8,500.00		\$10,000.00
ILO Refunds	\$0.00		
Intra State Fund Transfers Received	\$0.00		\$4,250,000.00
Miscellaneous Income	\$0.00		
		\$8,500.00	\$4,260,000.00
<b>Disbursements:</b>			
Transfer to Unassigned Revenue Fund	\$0.00		
Other Contractual Services	\$0.00		
Global Settlement Claims	\$42,801.67		\$300,000.00
Innocent Landowner Claims	\$130,099.58		\$2,000,000.00
Balance of Outdated Warrants	\$0.00		
		\$172,901.25	\$2,300,000.00
<b>Balance of Fund, August 31, 2008</b>		<b>\$10,028,164.64</b>	<b>\$12,152,565.89</b>
<b>0238 - UST LOAN GUARANTEE FUND (Non-Bonding)</b>			
<b>Balance of Fund, July 1, 2008</b>		\$255,595.82	\$255,595.82
<b>Receipts:</b>			
Interest Income	\$10,259.18		\$10,000.00
		\$10,259.18	\$10,000.00
<b>Disbursements:</b>			
Payments on Loan Losses	\$0.00		
Transfer to Unassigned Revenue Fund	\$0.00		\$0.00
		\$0.00	\$0.00
<b>Balance of Fund, August 31, 2008</b>		<b>\$265,855.00</b>	<b>\$265,595.82</b>
<b>0614 - UST CAPITAL RESERVE FUNDS (Bonding)</b>			
<b>Combined UST Capital Reserve Fund Balances, August 31, 2008</b>		<b>\$0.00</b>	<b>\$0.00</b>
<b>TOTAL FUND BALANCES, August 31, 2008</b>		<b>\$22,963,440.04</b>	<b>\$28,106,464.10</b>

**FOOTNOTES:**

Note 1: Funds labeled "Bonding" were created as a result of the issuance of UST Revenue Bonds. Disbursements from these funds are restricted by the Revenue Bond indenture. All bond funds are \$0.00 8/31/08  
Funds labeled "Non-Bonding" are funds not restricted as to use by the Revenue Bond indenture.

## **Attorney General's Report**

## **Claim Payment Approval**

**IOWA UNDERGROUND STORAGE TANK PROGRAM**  
**FIRST BOARD REPORT**  
**SEPTEMBER 18, 2008**  
**COUNTRY STORES OF CARROLL**  
**CENTER ST**  
**WALL LAKE**  
**SITE REGISTRATION NUMBER: 8606248**  
**LUST NUMBER: 7LTQ33**

**RISK CLASSIFICATION:**

HIGH

☒

LOW

NAR / FP

☒

**PRESENT CLAIM RESERVE:**

\$ 120,000.00

**ELIGIBILITY:** This is an eligible remedial claim with both a report at contamination to the IDNR and claim filing in the fall of 1990.

**COST INCURRED TO DATE:**

1. Site check and clean-up reports	\$ 15,294.19
2. Free product recovery	1,448.08
3. Site monitoring reports	2,388.75
4. RBCA Tier II report	2,520.00
5. Transfer from CRPCA project file	<u>82,925.81</u>
TOTAL COSTS INCURRED TO DATE:	\$ 104,576.83

**PROJECTED COSTS:**

<input type="checkbox"/> Risked Based Corrective Action Tier I & II Report	<input checked="" type="checkbox"/> Well Abandonment
<input type="checkbox"/> Site Monitoring Report (SMR)	<input checked="" type="checkbox"/> Free Product Recovery (FPR)
<input type="checkbox"/> Corrective Action Design Report (CADR)	<input type="checkbox"/> Implementation of CADR

TOTAL PROJECTED COSTS:

\$ 10,000 to 50,000.00

**TOTAL AUTHORITY RECOMMENDED:**

**COMMENTS:** The site is "no action required" with free product in one well.

**IOWA UNDERGROUND STORAGE TANK PROGRAM**  
**FIRST BOARD REPORT**  
**SEPTEMBER 24, 2008**  
**TYSON FOODS**  
**521 8<sup>TH</sup> AVE SW**  
**LEMARS**  
**SITE REGISTRATION NUMBER: 8600372**  
**LUST NUMBER: 7LTE56**

**RISK CLASSIFICATION:**

HIGH

☐

LOW

☐

NAR W/FREE PRODUCT

☒

**PRESENT CLAIM RESERVE:**

\$ 115,000.00

**ELIGIBILITY:** This is a remedial claim subject to a settlement agreement entered into on September 20, 1996. The eligibility issue was whether a timely notice was given to the IDNR and whether retroactive benefits should be given rather than remedial.

**COST INCURRED TO DATE:**

1. Settlement	\$ 48,695.00
2. RBCA Tier II report	17,990.00
3. Site monitoring reports	2,400.00
4. Free product recovery	<u>7,545.00</u>
TOTAL COSTS INCURRED TO DATE:	\$ 76,630.00

**PROJECTED COSTS:**

<input type="checkbox"/> Risked Based Corrective Action Tier I & II Report	<input type="checkbox"/> Tank Pull/Up-Grade.
<input type="checkbox"/> Site Monitoring Report (SMR)	<input checked="" type="checkbox"/> Free Product Recovery (FPR)
<input type="checkbox"/> Corrective Action Design Report (CADR)	<input checked="" type="checkbox"/> Well Abandonment

**TOTAL PROJECTED COSTS:**

\$ 10,000 to 70,000.00 +

**TOTAL AUTHORITY RECOMMENDED:**

\$ 125,000.00

**COMMENTS:** A 35% owner's co-payment will apply after cost exceeds \$100,000.00, if costs ever go that high. There is a deep water table and free product is persistent; as much as 4.5 feet in source well in 2008. Cost has been minimal with the responsible party doing hand bailing. An IDNR inspection reverts the site to monthly reporting instead of quarterly and more active supervision by the groundwater professional. Free product is diesel.



**Contracts Entered Into  
Since August 27, 2008 Board Meeting**

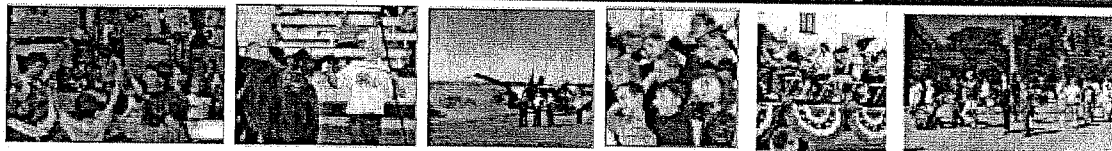
## **Other Issues as Presented**

## **Correspondence and Attachments**



THE OBSERVER, DEWITT, IOWA

# Observer Online

**Your connection to rural Clinton County, Iowa**

Wednesday, September 10, 2008

## Welton residents sound off on water project, taxes, audit issues and more

Wednesday, September 10, 2008

A crowd turned out at the Sept. 3 meeting of the Welton City Council to comment on a host of ongoing issues in the city, from taxes and water costs to issues surrounding an audit of city books and the competency of the city clerk.

On several occasions, Mayor Jan Huffman had to shout over the audience and council members and call for order as emotions flared in the town of 159 people.

Following reports from the sheriff's office and Crime Stoppers representative and city council member Ken Mickey, several citizens took advantage of the opportunity to address the council regarding issues not listed on the meeting agenda.

Resident Ralph Hillis asked where his tax dollars are going and questioned the reasons for what he called an overly high tax rate of \$10.54 per \$1,000 valuation.

He asked why the city's property tax levy is above \$8.10 per \$1,000 and why the budget includes levies for insurance and employee benefits.

City clerk LeAnn McCallister said the law allows the city to levy taxes for benefits and insurance above the \$8.10 limit.

The employee benefits consist of IPERS, the state retirement plan for public employees, which applies to McCallister, city employee J.C. Martensen and council member Sandi Walker, McCallister said. Elected officials have the option to accept or refuse IPERS coverage, according to McCallister.

The insurance is for coverage of city property, not employees, she said.

"I just wonder why we're being taxed so much," Hillis said, adding that the roads in town are in poor condition.

McCallister said road repair funds come from road-use tax money, not general fund dollars generated by property taxes.

"We're paying for all our sewer, we're paying for all our garbage, we'll be paying for all our water - what is our tax going for?" Hillis asked.

Property taxes pay for items such as street lights, police protection, mowing at the city park, wages for the clerk, mayor and council members, computer equipment and office supplies and telephone expenses, according to McCallister.

Council member Glen Boswell asked if the city has made any changes in recent years that affect the tax rate, and McCallister said it has not.

Christi Kilburg asked about wages paid to Martensen for work on behalf of the city. He earns federal minimum wage of \$7.25 per hour, McCallister said.

Karen Hillis asked why Martensen has been mowing property by Hwy. 61 not owned by the city and called it a waste of taxpayer dollars.

Boswell replied the city mows the area to keep it looking nice. The weeds could be allowed to grow if that's what residents want, he said.

Well capping

ordinance amendment

An agenda item to enlist the help of the East Central Intergovernmental Association (ECIA) to write an amendment for exemptions to the well-capping requirement of the city's water ordinance turned into a back-and-forth about the benzene contamination that resulted in the water system project.

Huffman said ECIA can help draft an ordinance amendment that will meet the provisions of the Iowa Administrative Code and other requirements enforced by the county sanitarian.

The administrative code allows variances from the well-capping requirement if wells are outside of the plume area and at least 50 feet from a septic system, but it applies only to shaft-type wells, not pit wells.

"It doesn't affect many wells not in the plume," Huffman said.

Kirk Vorwald and Christi Kilburg, who last month authored a letter to the editor calling the water project a "fiasco" and "web of lies," challenged the basis for requiring wells to be capped. Kilburg stated the 2005 map of the benzene plume from Seneca Environmental Services shows it is diminishing in size, and contamination levels are getting lower with each test.

Huffman responded by reading from e-mail correspondence among project engineer Mat Saur, the Department of Natural Resources and James Gastineau of Aon Risk Services that acknowledges the plume is shrinking but says the city is required to take action based on the 1999 plume map.

Aon Risk Services administers the Underground Storage Tank Fund created by the state legislature.

"Please note the projected plumes are based on the consultant's work as completed in 1999. Since that time, a considerable amount of work has been completed and contaminant levels may have been reduced. However, DNR has not approved or accepted any projected plumes for this site other than that provided with this note. Thus, for the purpose of the funding agreement, the DNR-accepted projected plumes must be used to identify at-risk wells," Gastineau wrote.

"So you are right, but they will not accept it," Huffman said.

Resident Tom Dalsing brought up the issue of the diminishing benzene plume a second time, and Huffman responded, "This is absolute. They will not bend on this. We have no choice."

Boswell asked why the city would want to allow exemptions to the well-capping requirement.

Huffman said the reason is to be fair to all residents. It is ultimately the choice of the city council, she stated.

"There would be very few people outside the plume who will meet the Iowa Administrative Code, maybe none," she said.

Council member Ed Novak said state officials suggested 15 years ago the city work to establish a municipal water system.

"If we had, it would have been cheaper. We can't wait . . . Besides, putting it off is not an option anymore," he said.

Dalsing made a comment about city officials hiding or ignoring the results of benzene testing by Seneca Environmental Services.

McCallister said the city has not been receiving reports from Seneca about the environmental test results even though they have been requested.

"We've got a water system one-third installed. What do you want us to do? I haven't been taking money from anybody. I haven't been spreading lies," Boswell said.

"What lies have I been spreading? I haven't been lying," Vorwald said.

Huffman intervened and called for a motion regarding the ECIA proposal.

Council member Billy Koranda asked about the cost, and Huffman said it will cost \$150 to prepare the ordinance amendment. Preparing any variances themselves will require assistance from the city attorney at a cost of \$130 per hour, she said.

"We have a \$1.7 million project. Are we going to hassle over \$500 to get it legally done?" she asked.

Huffman suggested ECIA prepare two ordinances, one of which would allow variances and one which would not. The council then could decide which route to go. A motion to that effect was approved.

### **Clerk wage discussion tabled**

After discussion, the council tabled action on a proposal to pay McCallister additional wages for work related to the upcoming city audit and directed McCallister to track her time and request payment after the audit is complete.

Huffman read a letter from the state auditor's office regarding the request that stated the clerk should not require extra hours if records have been properly organized and maintained.

"I cannot determine if 100 hours is reasonable. I would suggest the council get an explanation before approving," the letter stated.

McCallister said she currently works 20 hours per month for the city and needs extra time to make sure all the necessary paperwork is compiled in a single place.

"I would just need to pull everything together in one spot so it's ready to go," she said.

"I don't think I'll be able to get it done in 20 hours, but it won't take 100," she said.

"So you haven't been keeping things in order?" Dalsing asked.

McCallister said she needs the time to run any special reports the auditors will need and to compile them in three-ring binders.

Karen Hillis, a former Welton city clerk, challenged McCallister and said the work is part of her job.

"How do you justify getting more money to get this done?" she asked.

"The auditors will be here during the day. I have to leave work," McCallister said.

"Why is that the city's problem," Hillis asked.

"You don't have to pay me to do it," McCallister replied.

"Let someone else come down here. If the council doesn't want to pay me extra, that's fine. I'll go back to two days per week. I've been coming in on Fridays. I can stop," she said.

### **Related Links**

Iowa UST Fund  
Monthly Activities Report

August 2008

Claims	Open Claims July Ending	Open & Closed Monthly Net Changes	Open Claims August Ending	Open & Closed Totals since Inception
<b>RETROACTIVE</b>				
number	68	1	69	444
reserve	\$3,149,442.10	\$37,017.29	\$3,186,459.39	\$3,186,459.39
paid	\$8,063,057.90	\$88,482.71	\$8,151,540.61	\$14,600,907.80
total	\$11,212,500.00	\$125,500.00	\$11,338,000.00	\$17,787,367.19
<b>REMEDIAL</b>				
number	838	2	840	4,436
reserve	\$41,711,188.17	(\$426,575.16)	\$41,284,613.01	\$41,284,613.01
paid	\$91,753,172.88	\$520,693.29	\$92,273,866.17	\$181,887,417.79
total	\$133,464,361.05	\$94,118.13	\$133,558,479.18	\$223,172,030.80
<b>INNOCENT LANDOWNER</b>				
number	234	(2)	232	1,053
reserve	\$8,481,784.06	(\$167,012.09)	\$8,314,771.97	\$8,314,771.97
paid	\$11,988,576.26	\$86,512.09	\$12,075,088.35	\$22,728,356.56
total	\$20,470,360.32	(\$80,500.00)	\$20,389,860.32	\$31,043,128.53
<b>GLOBAL OPT-IN</b>				
number	243	(3)	240	1,262
reserve	\$1,453,931.94	(\$4,994.36)	\$1,448,937.58	\$1,448,937.58
paid	\$1,917,765.86	(\$25,505.64)	\$1,892,260.22	\$8,908,853.32
total	\$3,371,697.80	(\$30,500.00)	\$3,341,197.80	\$10,357,790.90
<b>UNASSIGNED PROJECTS</b>				
number	19	(1)	18	180
reserve	\$169,320.75	(\$11,543.30)	\$157,777.45	\$157,777.45
paid	\$320,971.35	\$1,543.30	\$322,514.65	\$2,644,548.18
total	\$490,292.10	(\$10,000.00)	\$480,292.10	\$2,802,325.63

<b>Corrective Action Meetings</b>	
Scheduled:	85
Completed:	850
MOA's	433

<b>RT Claims</b>		<b>#</b>
New		0
Reopened		1
Closed		0
<b>RM Claims</b>		<b>#</b>
New		0
Reopened		5
Closed		2
<b>ILO Claims</b>		<b>#</b>
New		0
Reopened		0
Closed		2
<b>GS Claims</b>		<b>#</b>
New		2
Reopened		2
Closed		6
<b>PROJ Cims</b>		<b>#</b>
New		0
Reopened		0
Closed		1

Invoice Type Totals	August	FYTD	Program to Date
American Soils	0.00	0.00	\$5,678,423
AST Removal	0.00	0.00	\$2,121,490
AST Upgrade	0.00	0.00	\$5,460,479
CADR Charges	16,214.67	20,857.22	\$4,104,344
Corrective Action	20,874.18	42,801.67	\$50,053,758
Free Prod Recover	35,088.66	120,754.96	\$7,344,587
Monitoring	95,839.61	234,556.20	\$19,357,724
New UST Pull 2004	29,463.21	71,775.90	\$1,029,794
Operations/Maint	52,255.58	119,472.31	\$6,806,214
Over-excavation	137,660.55	183,399.20	\$21,904,970
Plastic Water Lines	53,449.01	58,021.38	\$1,572,388
Post RBCA Evals	0.00	820.00	\$123,694
RBCA	36,993.34	50,516.54	\$24,663,104
Remed Imp/Const.	116,333.67	179,304.79	\$22,421,379
SCR Charges	0.00	0.00	\$54,156,632
Site Check	0.00	0.00	\$124,740
Soil Disposal	0.00	0.00	\$607,332
Tank (UST) Pull	0.00	12,436.49	\$4,955,363
Tank (UST) Upgrade	0.00	0.00	\$5,880,860
Tier III	615.00	615.00	\$1,122,139
Utilities	13,275.10	29,979.64	\$850,706
Well Closure	1,418.60	9,791.54	\$2,389,999
Total Invoice Types	609,481.18	1,135,102.84	\$242,730,118

<b>Budgets Approved to Date</b>	
August	1
Trailing 12 mos	32
Prev Trail 12 mos	68
Total Since Jan 2003	902
	\$33,348,779

Project Contracts	Open	Closed	Pending
CRP's	25	29	0
Tank Closure	2	3	0
Plastic Water Line	2	0	0